



Compromise and Toleration Responding to Disagreement

Rostbøll, Christian F.

Published in:
Compromise and Disagreement in Contemporary Political Theory

Publication date:
2018

Document version
Peer reviewed version

Citation for published version (APA):
Rostbøll, C. F. (2018). Compromise and Toleration: Responding to Disagreement. In C. Rostbøll, & T. Scavenius (Eds.), *Compromise and Disagreement in Contemporary Political Theory* (pp. 17-33). Routledge.

Chapter 1

Compromise and Toleration: Responding to Disagreement

Christian F. Rostbøll

Introduction

Compromise and toleration are responses to the same problem of how people who disagree on fundamental issues of good and right can nevertheless live peacefully together.¹ Both demand recognition of other people's views, however painful that recognition might be for some. And both are, at least in conceptions that are dominant today, based on a norm of mutual respect. Yet despite these similarities, compromise is not awarded the same stature as toleration in liberal political theory and democratic political culture. Compromise is usually seen as part of the rough-and-tumble of ordinary democratic politics, without any particular elevated aspect ascribed to it. It is accepted as an unavoidable aspect of democratic decision making, and while it is seen as necessary for forming a government and gathering enough votes to pass legislation, it is not regarded as a particularly ideal aspect of democracy. Toleration, by contrast, is commonly seen as the very foundation of modern liberal and democratic societies. It is regarded not merely as instrumental to peace or to the practical functioning of democratic politics, but as a value in its own right.

This chapter argues that the concepts of toleration and compromise are structurally similar, respond to the same question, and share a commitment to mutual respect. Therefore, there is something strange about regarding toleration as an important principle while denying any moral stature to compromise. However, there are also important considerations that pull toleration and compromise apart. Most obviously, if the parties to a compromise disagree on the value of toleration, a political compromise on toleration (or on an issue related to toleration) would violate the principle of toleration. This conflict arises when toleration is seen as an answer to what law and policy *should be*, while compromise is seen as an answer to how law and policy *should be made*. In other words, conflict is a consequence of regarding toleration as an outcome principle for assessing the content of law and regarding compromise as a procedure for making law. If we view compromise as a mere norm for

¹ Earlier versions of this paper were presented at Ethik-Zentrum, Philosophisches Seminar, Universität Zürich, Switzerland, November 18, 2015; The Annual Meeting of the Danish Political Science Association, Kolding, Denmark, October 29-30, 2015; and at the University of Copenhagen, May 12, 2016. I would like to thank the organizers and participants of these meetings for their insights and suggestions. Particular thanks are due to Richard Bellamy, Anders Berg-Sørensen, Hans Dabelsteen, Esben Høgh, Morten Kelstrup, Christoph Laszlo, Patrick Overeem, and Theresa Scavenius.

how to make law and toleration as only a standard for assessing the content of law, the two might come into conflict.

I do not argue that a commitment to toleration means that we must accept any and all compromises. A commitment to toleration implies constraints on what kinds of compromise are justifiable, and helps demarcate the limits of compromise. Roughly, we should not make intolerant compromises. However, this does not mean that toleration is the more fundamental idea. In my account, the norm of compromise also conditions the meaning and practice of toleration. Toleration without the democratic politics of compromise is the wrong kind of toleration because it turns toleration into an imposition and an insult of the strong against the weak. Only a form of toleration that is itself the result of a process in which the views of everyone are given equal weight is a proper kind of toleration.

To what extent such an egalitarian and mutual respectful democratic process requires compromise is in dispute (May 2005). I argue that it does—and not only for pragmatic reasons. A policy of toleration ought to be the result of a democratic process that is infused with the spirit of compromise. In conclusion, a commitment to toleration rightly conceived requires a commitment to a politics of compromise. And, the other way around, a legitimate practice of compromise in politics is dependent upon a commitment to toleration.

The structure of the chapter reflects the fact that the relationship between compromise and toleration is complex. I begin with two sections that define each of the two main concepts of the investigation, respectively. The following sections first show some similarities between toleration and compromise, then some differences, and finally how they should be connected. The final section discusses the limits of compromise.

Toleration

I begin with a concept of toleration that sees toleration as a norm of acceptance and non-interference with certain practices and beliefs that one otherwise finds objectionable. This is how toleration is understood in the paradigmatic case of religion: one tolerates a religion that one does not share if one accepts that others believe in it and to the extent that one does not interfere with their religious practices. Toleration is a norm that can be applied to both the state and to other powerful actors, but we assume that toleration is a norm that applies only to persons or entities that have the capacity to

interfere. Traditionally, toleration has been applied to determine the limits of state power and to avoid the tyranny of majority public opinion (Locke 1993 and Mill 1989).

The concept of toleration is characterized by three components: 1. *Objection*: a belief or practice must be regarded as objectionable, or, as Mill (1989, 15) puts it, "foolish, perverse, or wrong," before we can speak of tolerating it. We do not say that we "tolerate" beliefs that we affirm or to which we are indifferent. 2. *Acceptance*: when we tolerate a practice, it is because there are certain moral reasons that trump the reasons for rejection. These reasons for acceptance require that we accept the practices without making us agree with them. 3. *Rejection*: any concept of toleration involves a specification of its limits. According to Rainer Forst (2004; 2012), these three components characterize the *concept*, but there are different *conceptions* of toleration that specify the reasons for the three components in different ways, because of different normative theories. Thus, a conception of toleration is normatively dependent on a theory of justice.

Toleration is typically something minorities demand when their beliefs and practices are rejected and suppressed by the majority. Religious and sexual minorities, for example, demand that their practices be allowed by the state and accepted by public opinion, even if the majority does not agree with them or finds them foolish, perverse, or wrong. Toleration does not require that the majority likes the practices of the minorities, but only that it understands that there are other reasons, reasons of acceptance, that trump its reasons for rejection. For example, a Christian majority need not come to value Islam in order to accept that the norm of the equal liberty to determine one's own conception of the good trumps its reasons for rejecting the truth and value of Islam. Reasons of acceptance are based on a theory of justice or some substantive principles such as, for example, respect for autonomy. As such, a normative conception of toleration tells the parties what they can legitimately demand of each other, what the minority can demand, and what the majority or the state must permit. Thus, toleration is primarily concerned with the ability or the right of minorities to live according to their own ideas of what constitutes a good and fulfilling life – and *not* with participation in common affairs (cf. Ceva and Zuolo 2013, 239-40, 242).

A normative theory of toleration aims to find and justify criteria that can guide legislators in determining which political outcomes will allow citizens to live according to their own conceptions

of the good without violating principles of justice. Toleration, then, is an answer to what the law ought to be when citizens have diverse views of the good.

Compromise

The type of compromise that I discuss and relate to toleration is *moral compromise*, that is, a compromise in which both the conflict and its resolution are moral for the involved parties (Benjamin 1990, 24-5; Bohman 1996, 83-105; Lister 2007, 18; May 2005, 318-23). However, my discussion is not only pertinent to compromise as a solution to moral conflicts in the narrow sense, but to a wider range of political conflicts. Indeed, I believe that most, if not all, political conflict has a moral dimension, and it is difficult to separate out merely technical or pragmatic disagreements from moral disagreements. My discussion of compromise concerns cases in which the parties take themselves to be morally justified in accepting the policies, rather than cases in which they act from purely strategic or self-interested reasons. Thus, when I speak of compromise in the following discussion, I am thinking of a specific understanding of compromise that involves agreement *for moral reasons*.

Moral compromise differs from some uses of "compromise" in the empirical literature and ordinary language that either fails to distinguish compromise properly from consensus, or sees it as the product of mere bargaining. Moral compromise is an agreement in which all sides make concessions in order to be able to reach a collective decision, and in which the concessions are motivated by the presence of disagreement.² The requirement that everyone needs to make concessions means that no one obtains her preferred outcome. Thus, moral compromise involves the idea of mutuality, where everyone concedes something equally. The reason why the parties to compromise accept an option that from their own perspective is second best is that the value of making a collective decision trumps their *ex ante* preference. The fact that concessions are motivated by the presence of disagreement distinguishes compromise from both rational consensus and bargaining. In rational consensus, one is motivated solely by the merits of the reasons concerning the subject matter (Habermas 1996: 140-41, 166, 338-39), while in a compromise one is also motivated by the fact of disagreement itself (Kuflik 1979, 51). In bargaining, one is motivated by the differential force of the involved parties, while compromise is a voluntary agreement (Bellamy 2012, 448-9).

² Cf. Introduction to this volume.

A crucial feature of a compromise is that it is a form of agreement that does not eradicate disagreement. As Gutmann and Thompson (2012: 12) aptly put it, "the disagreements among the parties are embodied in the compromise itself." When a compromise agreement has been reached, and all the parties freely accept that the decision reached is the right one to follow, they keep believing that their initial position was more just or wiser than the compromise solution. That is, there is still disagreement on what the best course of action is, but the parties accept the compromise decision as the best possible decision *given their disagreements*. If the parties had come to regard the agreed-upon option as better than their initial position, then they would not need to compromise—they would have reached a consensus. A consensus differs from a compromise in that it is a form of agreement in which the parties have come to converge in their beliefs about the superior substantive merits of one and the same option. Thus, a consensus eliminates disagreements, while a compromise embodies them.

A moral compromise tends to be a deep compromise as opposed to a "bare" or shallow compromise (Bellamy 2012; Richardson 2002, 144-6). In a bare compromise, the parties take their own and their opponents' preference as a given, and seek a compromise that "splits the difference" or allows them to "meet in the middle." By contrast, the parties in a deep compromise do not regard ends as fixed, but seek a compromise in which ends are modified. Deep compromise differs from bare compromise because it involves an element of deliberation and learning. The parties do not just aim to maximize their own policy preferences, they acknowledge that they can learn from others in the combination of arguing and bargaining that characterizes deliberation aimed at deep compromise. A moral compromise must be a deep compromise, first, because people cannot treat their moral commitments as mere preferences, and second, because moral compromise depends on an element of learning that weeds out unreasonable positions and brings people closer together (Bohman 1996, 90, 100-101).

It might be asked whether the notion of deep compromise does not collapse the distinction between compromise and consensus, which is essential for compromise theory. But it is possible to see a deep compromise as a compromise in which the parties have learned from each other and changed their preferences without their converging on one solution as the optimal first-order policy. The idea of deep, moral compromise maintains the deliberative idea of politics as a learning process, but insists that deliberation can enhance the level of public debate even if it does not lead to convergence. If a

compromise does not eliminate clearly unreasonable positions, it would be hard to see that it could be accepted for moral reasons, while if it leads to convergence, it would no longer be a compromise.

Similarities between toleration and compromise

Toleration and compromise, as understood above, are both responses to the same question of how people who disagree on fundamental issues of good and right nevertheless can live peacefully together. Contemporary normative theories of toleration and compromise share the description of modern societies as characterized by pluralism as well as the normative premise that this pluralism is legitimate because it is the product of free institutions (Rawls 1999, 4). Proponents of toleration and compromise, therefore, agree that pluralism is not an unfortunate fact that we should hope to overcome, but a legitimate feature of a free society that should be accommodated. Toleration is, of course, the classical and time-honored liberal response to pluralism, but contemporary treatments of compromise often have the same aim of accommodating citizens with diverse views of the right and the good. Like toleration, compromise involves an acceptance of not being able to come to a consensus on certain issues and, therefore, of "agreeing to disagree," as we say. Writers who discuss toleration and compromise also equally recognize that the acceptance of other citizens' views is not easy; indeed, it often involves "painful recognition of the other side, the giving up of dreams" (Margalit 2010, 54; cf. Scanlon 2003).

The idea of a moral compromise has the same structure and components as the concept of toleration.

1. Objection: Compromise is only necessary when we object to other parties' opinions; when a compromise has been reached, the parties continue objecting to each other's policy positions. *2. Acceptance:* When we agree to a compromise, it is not because we have come to share policy preferences, but because there are other reasons—reasons of compromise—that trump reasons of objection. *3. Rejection:* Insofar as the reasons for compromise are moral reasons, there must be limits to with whom and about what one should compromise. In other words, there are limits to compromise.

Contemporary conceptions of toleration are often based on a notion of equal and mutual respect (Forst 2012). The same is true of contemporary explanations of the value of moral compromise (Rostbøll forthcoming). Under certain conditions, proponents of compromise argue, making a compromise is morally required as a way of showing respect for your political opponents' views and the plurality of society. Richard Bellamy, for example, thinks the non-instrumental value of compromise is due to

the fact that it shows "equal concern and respect" for each citizen (Bellamy 2012, 444). Colin Bird (1996, p. 92) writes, "The imperative to compromise ... derives from the moral norm of mutual respect, not from a prudential calculation." Thus, it seems that toleration and compromise are based on the same normative commitment. The reason why we must tolerate differences as well as compromise in politics is that we cannot eliminate disagreement without violating a basic modern commitment to the individual right to form one's own views of the good and the right. Note that the idea is not that everyone is right, but that no one has the right to determine who is right. The first is a relativistic position, while the second is a universalistic position of equal respect.

In view of these important similarities between toleration and compromise, it seems peculiar to elevate toleration to a great virtue, while compromise is relegated to the practical necessities of ordinary politics. However, there are also aspects of toleration and compromise that pull them apart.

Differences between toleration and compromise

The difference between toleration and compromise can be summarized in two slogans: "Toleration is not a compromise," and "Compromise is not toleration." The purpose of the discussion of these slogans is to investigate the complex relationship between the two norms as well as our intuitions about and evaluations of them. However, in the following section, I go beyond these slogans and return to an account that integrates toleration and compromise.

The first slogan, "Toleration is not a compromise," means that proponents of toleration do not see it as a second best to some other policy ideal that they accept only because of disagreement on the higher ideal. This means also that a policy of toleration does not necessarily require political compromise. I said earlier that a conception of toleration depends on a theory of justice, and the theory of justice will tell us which beliefs and practices to accept and which to reject. A conception of toleration and the theory of justice that provides its content are put forth for everyone to agree to. If we all agree on the conception of toleration and the theory of justice that supplies the reasons for acceptance and rejection, there is no need for a political compromise. Thus, a conception of toleration aims to supply the grounds for a consensus.³

³ This is clear in Forst 2007, 231n32.

Political compromise, of course, comes into the picture when a consensus on a theory of justice cannot be reached, or when there is disagreement on what justice requires in particular circumstances. This does not change because the theory of justice is one that requires toleration of different viewpoints. The latter is a theory of what the law ought to be, and it is put forth as a candidate for something everyone, despite their disagreements, ought to accept as the best the law can be. A normative theory of compromise requires us to accept that citizens in pluralistic societies cannot agree on justice or on what the law ought to be. Compromise is needed because there is no shared conception of toleration or justice—if there was one, no compromise would be needed.

You might say that in a sense toleration is a second best, because it involves accepting something to which one objects. Wouldn't the first best be not having to accept what one regards as objectionable?⁴ Here, we must distinguish between opinions about what one regards as preferable and what one regards as right to legislate about or otherwise interfere with. An atheist, for example, may prefer to live in a society in which there is no one so foolish as to believe in God. She might accept, however, that everyone has an equal right to live according to his or her own religious or non-religious beliefs. Toleration concerns what we should allow others to do and not what we would prefer that they do. I might prefer that others share my view of the good, and regard it as sub-optimal that they do not. But if I am committed to toleration, I do not see acceptance of their beliefs and practices as a compromise with this preference, for reasons of acceptance *trump* my reasons for objection.

It might be less likely to find people who agree with the second slogan, "Compromise is not toleration." However, some theorists of compromise have emphasized the idea that compromise is not toleration (Bellamy 1999, 93), but they tend to see compromise as in a sense "more" than toleration. Thus, for them, the slogan should read, "Compromise is not *merely* toleration." However, I think that we could say that compromise is both "less" and "more" than toleration. Compromise is less than toleration insofar as, for the partisan, it is a second-best policy. The compromise policy, in our definition, is one that no one thinks is the best policy in itself. Thus, insofar as one accepts a compromise, one also compromises (some of) one's principles. By contrast, if one thinks toleration is the right policy, one does not compromise one's principles by accepting a policy of toleration. Compromise, however, is also "more" than toleration, because by accepting a compromise, we

⁴ Cf. Lister 2007, 3-4: "Were it not for the unfortunate fact that reasonable people inevitably disagree about certain questions, we would invoke our own view about the answers to these questions in making public decisions." See also Scanlon 2003 on the point that toleration entails costs for everyone.

accommodate not merely people's preferences about how to live their own lives, but also try to accommodate people's different views about how to regulate our interactions and about common goals. Insofar as we regard toleration as a policy of non-interference, compromise clearly involves something more expansive and demanding (White and Ypi 2016, 147-48).

While the previous section suggested that toleration and compromise are importantly similar responses to the same question of dealing with pluralism in a respectful manner, the considerations in this section point to some important differences between the two concepts and practices. When parties who cannot overcome their disagreements make a political compromise, they do something different from when they tolerate each other, and vice versa. Perhaps we can understand the difference in the following way: while toleration is mainly a matter of accepting citizens' equal right to co-existence as subjects to law, political compromise includes the parties in making law—it makes them co-authors of law. Toleration entails respecting the plurality of conceptions of the good in society, whereas political compromise embodies citizens' disagreements in coercive laws. In other words, toleration is an answer to the question of what the law ought to be, while compromise is a response to disagreement on what the law ought to be.

If this is right, toleration and compromise deal with different kinds of disagreement, and ask citizens to accept different kinds of beliefs and practices. This matters also for what kind of respect is involved in toleration and compromise, respectively. In the classical notions of toleration, citizens are asked to respect that others have different conceptions of the good life than they do. But in the case of compromise, citizens are asked to do more. Thus, Bird (1996, p. 92, emphasis added), writes, "we ought to compromise because doing so is the appropriate way to display respect to citizens with a variety of views *about the relevant public policy issue*." To be sure, one's conception of the good affects one's view about public policy, but still, there is a difference between respecting others' right to form and live according to their conception of the good and to incorporate others' views about common rules and goals into the making of policy and law.

If we follow this line of thinking, the moral importance of compromise is not (mainly) respect for each citizens' moral power to pursue her own conception of the good, as is the common idea in conceptions of toleration. Rather, compromise shows respect for each person's opinions about what common, coercive laws ought to be. A conception of toleration tells us why and how everyone should

be treated as subjects to the law, while a normative theory of compromise tells us how and whom to include in making laws that apply to everyone. Thus, compromise does not merely respect diversity in the sense that everyone be allowed to follow their own legitimate conception of the good; it respects diversity as something that must be included in making law and policy. A conception of toleration is a regulative ideal for what should be decided and for the limits of law, while a theory of moral compromise provides guidelines for how laws should be made and who should be included in decision making.

A conception of toleration supplies reasons for the three components of the concept of toleration. According to the current interpretation, the reasons for toleration and the reasons for compromise are of different kinds. The reasons for toleration supplied by a conception of toleration, based on a theory of justice, are reasons that are aimed at convincing us of how we ought to relate to each other and of what the laws ought to be. A conception of toleration, then, might be aimed at making us change our opinions about what the law ought to be: they might aim at correction. The reasons supplied by a theory of moral compromise are of a different kind. They are not aimed at correcting our first-order policy preferences, but are second-order reasons telling us that we should accept a compromise agreement given disagreement at the first-order level (May 2005, 318-19). The whole point of compromise is that we cannot reach convergence at the first-order level of policy and must accept outcomes, which at the first-order level seem to be a mere second best. At the second-order level, however, compromise must be seen as the right way to reach an agreement; otherwise, the reasons for compromise have failed in their objective. Thus, reasons for compromise *are* reasons for correction, but simply at a different level and with a different purpose—they are reasons for correcting the way to make collective decisions.

To avoid misunderstanding, let me clarify the last point. We might think that the idea of compromise comes into its own when there is no agreement to be found. And it is important to note that if we want to hold on to compromise as a unique notion, we cannot say *without qualification* that the parties to a compromise regard it as a fair way of settling disagreements (Bellamy 2012, 457). If the parties accept the outcome as fair, they have reached a consensus and have not made a compromise (Jones and O'Flynn 2013). An agreement is only a compromise if the parties do not regard it as fulfilling their notion of what a fair outcome is. Still, there is another way in which the parties might regard compromise as the right thing to do, i.e., a way in which they agree on something. Thus, Bellamy

writes that in a compromise, "There is an *acceptance* that all are entitled to disagree and that we must reach collective agreements in ways that respect our disagreements" (2012: 457, emphasis added). For Bellamy, this acceptance does not amount to that the parties regard compromising as fair. However, the parties are clearly agreeing on something, namely on "a process characterized by mutual respect" (Bellamy 2012, 457), and that in a politics of compromise an adherence to the outcome of this process must trump one's first-order policy preferences. Thus, a conception of moral compromise does aim to convince us of something, and does not leave all disagreements in place; it tries to convince us of the value of moral compromise in politics and aims to correct those who reject it.

Now, if we see compromise solely as a procedure for making law, and toleration only as a standard for the content of law or an outcome principle, the two might clearly come into conflict. Obviously, if the parties to a compromise disagree on the value of toleration, a political compromise on toleration (or on an issue related to toleration) would violate the principle of toleration. This possible consequence of compromise might explain our reluctance to award compromise the same standing as toleration. Compromise in politics—even moral compromise—might violate some of our deepest-held principles. Or have we gone too far in separating the respective reasons for toleration and compromise?

Integrating toleration and compromise

I have argued that while the concepts of toleration and compromise are structurally similar, respond to the same question, and share a normative commitment to mutual respect, the two concepts are different in important ways. This section explores the possibility of integrating the two concepts in something like a unified normative account. It begins by noting one important reason for the common evaluative ambivalence toward tolerance and compromise, respectively, and notes an important difference between the two concepts in this connection. Evidently, while part of the ambivalence toward both toleration and compromise has its roots in the fact that in both cases we are asked to accept something we reject, this is not the issue I want to highlight. Regarding toleration: I am thinking about the old charge that it entails arrogance (Kant 1996, 8:40). The reason for this is that toleration has been seen traditionally as something the strong bestow on the weak; thus, toleration may express a hierarchical relationship. The ambivalence toward compromise has its roots in the straightforward observation that we are asked to accept a policy that we think is not fully right or rational (Lister 2007, 18; Luban 1985, 414-15). To compromise is to betray one's principles, to

compromise oneself. My suggestion is that if we can integrate toleration and compromise, we can mitigate the arrogance of the first and the unprincipledness of the second.

Let us begin with the argument that compromise can mitigate the potential arrogance of toleration. Toleration becomes arrogant when it elevates the tolerator over the tolerated, that is, when the tolerator regards him- or herself as having a standing that the tolerated does not have (Rostbøll 2009: 633). There are two aspects to this. First, the tolerator regards her acceptance of the other's belief and practice as something she bestows on the other, as a permission she has granted, and the tolerated becomes dependent on the goodwill of the tolerator (Forst 2007, 218-20). Second, the tolerator assumes that she knows what toleration requires of her, that is, she takes the meaning and implication of toleration as a given. By contrast, if we regard toleration as a product of a political compromise, it cannot be seen as an arrogant imposition by some on others. In moral compromises, the parties regard each other as equals, and the result incorporates the views of everyone. A politics of compromise assumes and accepts that the meaning and implication of questions of justice, including toleration, cannot be taken as a given, but must be the product of the political process itself. Thus, if people should be able to live according to their own conception of the good, public policy should not be dictated by one group: it should be determined by a compromise between different groups. If public policy is determined only by members of the majority culture, for example, it is likely that public policy will be biased toward and favor the majority's way of life. By including members from different cultures in a compromise, it seems more likely that public policy will be more accommodating of diversity and hence more tolerant.

However, we cannot assume that all compromises will actually promote tolerant policies. Indeed, if we do not have any idea of what toleration means, we cannot even assess whether a compromise agreement actually promotes toleration or not. Thus, we are back to our reasonable ambivalence toward compromise, that is, that a politics of compromise appears unprincipled. Either it is unprincipled because it requires one to give up one's own principles when they clash with the other side's principles, or it is unprincipled because it involves a rejection of the existence of objective principles at all. It is in order to avoid this conclusion that we should not discard a conception of toleration entirely. Thus, we have the argument regarding how our conception of toleration can mitigate the weakness of a politics of compromise. A notion of toleration is required to explain which compromises are acceptable, and can help demarcate the limits of compromise. A reasonable politics

of compromise is dependent on a notion of toleration. Indeed, we should avoid intolerant compromises when we can. This proposition sounds contradictory in light of the previous paragraph. For if the meaning of toleration is not a given, but is the product of compromise, how can it serve as a limit to compromise?

There is no short and easy answer to this question. But note that the idea of moral compromise already entails a normative commitment to mutual respect. The kind of a politics of compromise that I suggest can and should be integrated with an idea of toleration is not devoid of moral content. The reason why political theorists have argued in favor of a politics of compromise is not merely a concession to real politics, but because such a politics is regarded as expressing mutual concern and respect for the involved parties. This means that we cannot regard toleration as the moral idea that must constrain the amoral practice of compromise in politics. We promote *both* toleration and compromise in politics because of our normative commitments. And, as emphasized, the normative commitment to compromise in politics shares an ideal of mutual respect with at least one conception of toleration.

It might be argued that if compromise depends on the same commitment to mutual respect as toleration, a politics of compromise does not have the claimed ability to mitigate the arrogance of (some forms of) toleration. Moreover, if we need compromise because of a disagreement on justice, how can compromise itself depend on a shared normative commitment? First, it should be noted that compromise is *a form of politics*, and that the commitment to mutual respect is one that should be expressed in this politics. As such, mutual respect is not an external constraint on compromise, but what makes such a politics possible. Second, while I do not deny that the idea of moral compromise does depend on consensus on some moral idea, this idea is not a theory of justice. Deep and moral compromise requires agreement only on a vague idea of mutual respect, which is open to pluralism and disagreement (Richardson 2002, 158-161). Thus, my suggestion is that the proposition that we should not make intolerant compromises is built into the very idea of moral compromise. However, more needs to be said about the implications of this for the limits of compromise.

The limits of compromise

Since toleration is a normatively dependent concept, any conception of toleration involves a specification of its limits. The reasons for acceptance supplied by a conception of toleration simultaneously entail limits to what can be accepted, that is, reasons for rejection. For example, if the

reasons for acceptance are grounded in a norm of equal freedom, the conception of toleration must reject practices that lead to the violation of this same norm. It would undermine toleration itself not to reject practices that do not recognize the norm supplying the reasons of toleration. While toleration is the proper attitude in cases where the objection to others' views is the product of reasonable differences in conceptions of the good, it is not the proper attitude in cases where the objection is the product of, for example, racial or ethnic prejudice. In the latter cases, it would be better if one would get rid of the prejudice (Scanlon 2003, 187). Similarly, compromise is the right response to some, but not to all disagreements. There are limits to when we have moral reasons to compromise. Just as in the case of toleration, a theory of compromise supplies reasons for compromise that are dependent on certain normative commitments. And the normative commitments giving rise to the imperative to compromise also entail that there must be limits to compromise.

Yet, there is an important asymmetry between toleration and compromise here. As regards toleration, a conception only has to provide guidelines for one question, namely, which practices are acceptable and which must be rejected. When it comes to compromise, we cannot say that any compromise that is within certain limits *should* be made. A theory of compromise must make further distinctions and answer more questions. First, there might be absolute limits to compromise, limits beyond which a compromise should never be made, no matter the consequences. Margalit (2010) calls such compromises "rotten compromises."⁵ Second, at the other end of the spectrum, there are compromises that we *should* make, i.e., obligatory compromises. Third, in between these two extremes there are compromises that we are free, but not bound, to make. These might be of two kinds: one is closer to the first extreme and the other to the other extreme. Thus, there are compromises that are morally shabby, but nevertheless permissible. These compromises do go beyond certain moral limits, but they are not so rotten that we can say that they are prohibited, come what may. Whether or not to engage in such compromises depends on the good consequences outweighing the moral violations. The other type of compromises that we are free to make is compromises that do not violate any moral limits, but which are nevertheless not obligatory. Thus, there are some compromises that are morally unproblematic for which there are nevertheless reasons against making.

In a democracy, citizens have a *pro tanto* obligation to seek compromises with each other when they cannot agree. They have this obligation because this is necessary to make democracy work under

⁵ See also the chapter by Simon May in this volume.

normal circumstances of disagreement. It might be thought that the obligation to compromise in democracy is absolute and not *pro tanto*. If citizens disagree on justice, and if all citizens should have influence on democratic outcomes, it seems that there should be no limits to compromise. However, this is an incoherent position. The freedom to compromise has limits, and the obligation to compromise has even narrower limits. Thus, there are two types of limits to compromise, limits to the permission to compromise and limits to the obligation to compromise, and I suggest that a conception of toleration can supply some guidance regarding these. The reason is that the democracy-based obligation to compromise is grounded not only in the empirical circumstance of disagreement, but also in the normative requirement of mutual respect, and the latter is related to the imperative to tolerate others' views. That we must tolerate each other's views, even when we find them foolish, perverse, or wrong, is also part of the reason that citizens should be free to compromise. Citizens must be free to compromise because this permission expresses respect for their ability to form their own views of the good and the right (Jones and O'Flynn 2013, 127).

Consider now two types of cases in which compromise seems not to be required. First, there is the type of case in which some citizens have uncompromising attitudes. In the extreme case, people with uncompromising attitudes are unwilling to participate in negotiation and concede anything to their opponents. In less extreme cases, people with uncompromising attitudes are willing to concede something to their opponents, but demand much more weight to their own views than to those of others. In the second case, we have a group of citizens who are very willing to negotiate and compromise; they are willing to concede something to their opponents, and do not make unfair or excessive demands. In this case, it is the *content* of their demands that raises the issue of limits. To take a clear example, think of the case of the compromise-willing racist. She is willing to negotiate and moderate her racist policy preferences to reach an agreement in the face of disagreement. Her preferred outcome is one that strongly discriminates against blacks, but out of respect for the principles of negotiation and compromise, she accepts an outcome that is only mildly discriminatory.

Regarding the first case, proponents of compromise can say that there are certain norms inherent in the idea of negotiation and compromise, and that there is no point in negotiating with citizens who fail to acknowledge these norms. As Bellamy writes, "Negotiation with such persons has no point, because they do not themselves acknowledge the need for it. Crucially, they fail to demonstrate equal concern and respect for the opinions of others" (1999, 107). Citizens with uncompromising attitudes

have excluded themselves from compromise, and others have no obligation to incorporate their opinions in policy. No one can complain of being excluded from a compromise on the basis of a norm they do not share. In this case, we are beyond the limits of what we might call the relational obligation to compromise. That is, we do not owe it to persons who reject principles of mutuality to compromise with them. Still, there might be other, non-relational and pragmatic reasons, that make compromise an obligation, for example, reasons of stability and peace.

Note here a contrast to the limits to toleration, as the latter are specified by Rawls. Rawls writes, "A person's right to complain is limited to violations of principles he acknowledges himself" (Rawls 1999, p. 190). However, he emphasizes that this limit does not entail that others are not required to tolerate the behavior of those who reject the principle of toleration, as long as the behavior of the intolerant does not undermine the basis of a tolerant society. The tolerant groups are required to follow principles of justice also toward those who do not acknowledge these principles (Rawls 1999, 191-2). Rawls's first point follows what I just said about the limits of compromise. But regarding compromise, we cannot say that uncompromising party "P" cannot complain of being excluded from compromise, *and* that P should nevertheless be included in compromise because principles of justice require this. In the case of toleration, the tolerant group can tolerate the intolerant group following the principles of justice that specify the conception of toleration, but the same position is impossible in the case of compromise. Those who are willing to compromise according to standards of compromise simply cannot do so with parties unwilling to do so. The reason is that compromise is a joint, cooperative activity in a sense that toleration need not be. We can tolerate others by leaving them alone, but this is obviously not an option with regard to compromise.

Consider now the case of the compromise-willing racist, whom we assume does accept the obligation to negotiate with non-racists. We might even imagine that she is committed to the idea that one must show equal concern and respect for the opinions of everyone *in the negotiating process*. Now, you might say that the racist's discriminatory policy view violates a democratic norm of equal treatment. However, the compromise-willing racist has not violated any procedural norms, that is, any norms about what is legitimate in the process of determining political outcomes. What she has violated is a standard for which outcomes are acceptable. Thus, if we want to say that one should not compromise

with racists, we cannot only look at the process of compromise—on the compromise willingness of the participants. We must also judge the acceptability of the outcome.

Some theorists of compromise equivocate regarding whether the limits to compromise concern process, or process and also content. Bellamy (1999, 114), for example, writes that the only ones excluded in his account are "those who through prejudice or selective blindness refuse to compromise." But he makes things too easy for himself by assuming that prejudiced people are the same as uncompromising people. He seeks to exclude compromise with racists, not by rejecting the content of their beliefs as morally unacceptable, but by saying that racists are unwilling to properly negotiate and compromise. However, he can make this move only by incorporating quite strong normative commitments into his theory of compromise. At least, we cannot reject the possibility out of hand that there might be bigots who are quite willing to negotiate and make political compromises. Indeed, we have some of them on the far right in Europe today!

In fact, I think Bellamy is right when he writes that a good compromise aims "to integrate the various interests and ideals in play, and to reach solutions that are mutually acceptable and embody equal concern and respect for those involved" (Bellamy 1999, 111). But here "equal concern and respect" refers not merely to a norm that should regulate the democratic process, but is also a standard for political outcomes, which Bellamy says should *embody* the norm. Thus, the normative commitment of compromise theorists is a stronger normative commitment than some perhaps are willing to admit. It is not merely a commitment to certain procedural norms of compromise willingness in the sense of accepting that whatever results from a process that meets these norms is legitimate. If it were, there would be no reason to reject a compromise with a compromise-willing racist.

The conclusion of this discussion of the limits of compromise is that a procedural norm of mutual respect is insufficient. Even parties who mutually respect one another in the political process and who accept that concessions should be mutual may reach a compromise that is morally unacceptable and intolerant. Thus, when I suggest that we should not make intolerant compromises, I see this as a constraint not merely on the process of making compromises, but also as a constraint on what should count as an acceptable compromise.

What does this conclusion say about the respective limits to the permission to compromise and to the obligation to compromise? Under normal circumstances, there would be no obligation to make intolerant compromises, nor would we be free to do so. In order to give further guidance, we need a fuller conception of toleration than I can provide here. Moreover, we need an account of exceptions to the duty not to make intolerant compromises. The circumstances and limits of compromise are contextual issues for which it is difficult to give general guidelines. All I have aimed to suggest here is that a process norm of mutual respect is insufficient for this, and that an outcome standard of toleration is also required. A tolerant compromise is not just one that shows respect for disagreement; it is also one which embodies respect for human equality, where the latter limits the former.

Conclusion

Some might suggest that my discussion, especially my argument about the limits of compromise, collapses compromise into toleration and fails to give compromise its due weight. In other words, it might be argued that I have failed to provide compromise with the standing that I aimed to give it and have placed it at the service of toleration. Moreover, it may seem that my account neglects the idea that compromise gains its importance from the fact of disagreement. However, I have argued against the possibility of defending compromise solely as a response to normative disagreements. Indeed, if these disagreements go all the way down, there is no reason to favor a politics of compromise (cf. Overeem in this volume). A defense of compromise depends on some normative premise, and I have argued for a notion of mutual respect as that normative premise.

There are three important aspects to this notion of mutual respect. First, accepting the idea of mutual respect is not the same as agreeing to a theory of justice. It is a more vague and general idea that is compatible with much, if not all, disagreements about the right and the good. Moreover, it is an idea that embodies respect for disagreement. Second, the idea of mutual respect is one that is shared by theories of compromise and theories of toleration. So when we argue that this norm should be included also as an outcome norm and avoid intolerant compromises as much as possible, we are not imposing a substantial limit on compromise that has a moral basis that is alien to the very idea of moral compromise. Toleration and compromise share a commitment to an idea that we should respect the ability of persons to determine their own views of the right and the good. Third, the meaning of mutual respect is not a given once and for all, but is itself subject to discussion in a society that is infused with the spirit of toleration and compromise. Thus, in my integrating account, the meaning

of toleration and the limits of compromise are provisional, reversible, and subject to continuous negotiation. The last point is important in order to avoid toleration becoming an arrogant imposition on some citizens by others, and is the reason why I have argued that toleration rightly conceived depends on the democratic politics of compromise.⁶

As long as the meaning and implications of toleration are not seen as imposed from outside democratic politics, and as long as toleration entails only general guidance regarding the limits of compromise, the latter still plays an important independent role. Compromise retains its independent value as a form of politics that is grounded in the recognition of political disagreement and respect for citizens' divergent views not merely on private matters but also on matters of public policy. Moreover, if compromise and toleration are to supplement one another, we should keep their meaning and role distinct, both in theory as well as in practice. Despite the similarities between the two, it is important to hold on to the distinction according to which toleration is a principle for how to treat people with whom we disagree, and compromise is a way for people who disagree to cooperate and act together. The latter has a meaning and value of its own that is not captured in standard conceptions of toleration.

⁶ If this sounds circular, see Rostbøll 2011, 13.

References

- Bellamy, R. *Liberalism and Pluralism: Towards a Politics of Compromise*. New York: Routledge, 1999.
- Benjamin, M. *Splitting the Difference: Compromise and Integrity in Ethics and Politics*. Lawrence, KA: University Press of Kansas, 1990.
- Bird, C. "Mutual Respect and Neutral Justification." *Ethics* 107, no. 1 (1996): 62–96.
- Bohman, J. *Public Deliberation: Pluralism, Complexity, and Democracy*. Cambridge, MA: MIT Press, 1996.
- Ceva, E. and F. Zuolo. "A Matter of Respect: On Majority-Minority Relations in a Liberal Democracy." *Journal of Applied Philosophy* 30, no. 3 (2013): 239–53.
- Forst, R. "The Limits of Toleration." *Constellations* 11, no. 3 (2004): 312–25.
- Forst, R. "To Tolerate Means to Insult: Toleration, Recognition, and Emancipation." In *Recognition and Power: Axel Honneth and the Tradition of Critical Social Theory*, edited by B. van den Brink and D. Owen, 215–237. Cambridge: Cambridge University Press, 2007.
- Forst, R. "Toleration." In *Stanford Encyclopedia of Philosophy*, 2012. Accessed September 24, 2015. <http://plato.stanford.edu/entries/toleration/>.
- Gutmann, A. and D. Thompson. *The Spirit of Compromise: Why Governing Demands It and Campaigning Undermines It*. Princeton, NJ: Princeton University Press, 2012.
- Habermas, J. *Between Facts and Norms*. Cambridge: Polity Press, 1996.
- Jones, P. and I. O'Flynn. "Can a Compromise be Fair?" *Politics, Philosophy & Economics* 12, no. 2 (2013): 115–135.

Kant, I. “An Answer to the Question: What is Enlightenment?” In *Practical Philosophy*, trans. and edited by M. Gregor, 11–22. New York: Cambridge University Press, 1996.

Kuflik, A. “Morality and Compromise.” In *Compromise in Ethics, Law, and Politics*, edited by J. Pennock and J. Chapman, 38–65. New York: New York University Press, 1979.

Lister, A. “Public Reason and Moral Compromise.” *Canadian Journal of Philosophy* 37, no. 1 (2007): 1–34.

Locke, J. “A Letter Concerning Toleration.” In *Political Writings of John Locke*, edited by D. Wooton. New York: Mentor, 1993.

Luban, D. “Bargaining and Compromise: Recent Work on Negotiation and Informal Justice.” *Philosophy & Public Affairs* 14, no. 4 (1985): 397–416.

Margalit, A. *On Compromise and Rotten Compromises*. Princeton, NJ: Princeton University Press, 2010.

May, S. “Principled Compromise and the Abortion Controversy.” *Philosophy and Public Affairs* 33, no. 4 (2005): 317–48.

Mill, J. S. *On Liberty and Other Writings*. Cambridge: Cambridge University Press, 1989.

Rawls, J. *A Theory of Justice*, rev. ed. Cambridge, MA: Harvard University Press, 1999.

Richardson, H. *Democratic Autonomy: Public Reasoning About the Ends of Policy*. New York: Oxford University Press, 2002.

Rostbøll, C.F. “Freedom of Expression, Deliberation, Autonomy, and Respect.” *European Journal of Political Theory* 10, no. 1 (2011): 5–21.

Rostbøll, C.F. “Autonomy, Respect, and Arrogance in the Danish Cartoon Controversy.” *Political Theory* 37, no. 5 (2009): 623–648.

Rostbøll, C.F. “Democratic Respect and Compromise.” *Critical Review of International Social and Political Philosophy*, forthcoming.

Scanlon, T. M. “The Difficulty of Tolerance.” In *The Difficulty of Tolerance: Essays in Political Philosophy*, 187–201. Cambridge: Cambridge University Press, 2003.

White, J. and L. Ypi. *The Meaning of Partisanship*. New York: Oxford University Press, 2016.